

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

DANIEL EISNER,

Plaintiff,

v.

WALLEYE TRADING ADVISORS, LLC,

Defendant.

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07 Civ. 7837

**AFFIDAVIT OF
TOMISLAV
PAVLICIC**

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

TOMISLAV PAVLICIC, being duly sworn, deposes and says:

1. I am employed by D. E. Shaw & Co., L.P. ("D. E. Shaw" or "the Company") as a recruiter in the Strategic Growth department. I have held this position since July 19, 2004. I make this affidavit in support of Daniel Eisner's ("Eisner") motion for a preliminary injunction enjoining Walleye Trading Advisors, LLC ("Walleye") from engaging in conduct, including seeking to enforce a non-competition agreement (the "Non-Compete") against Eisner, designed to prevent him from commencing employment with D. E. Shaw. This affidavit is based upon my personal knowledge.

2. D. E. Shaw is a leading investment and information technology firm with its main office in New York, New York. D. E. Shaw employs a number of technology professionals to undertake various tasks at the Company. Like many financial services companies involved in quantitative trading, D. E. Shaw separates the functions of these employees. Technology

professionals working in the "Front Office" are the quantitative analysts ("Quants"), who are engaged in the development of proprietary trading algorithms and/or trading programs, and Software Developers, who write the code that tells the computer systems how to effectuate the algorithms created by the Quants. In contrast, technology professionals in the "Systems" department (also known as "IT" professionals) are responsible for the implementation and maintenance of computer systems infrastructure.


3. In my position at D. E. Shaw, I am actively involved in recruiting technology professionals to work in both the Front Office and in the Systems department. In this capacity, I review resumes of candidates submitted directly by candidates and by headhunters to pre-screen and identify candidates who may be appropriate for positions at the Company. In my position, I review over six thousand resumes of IT professionals each year to ascertain if they appear to have the skills that would be necessary for IT positions within D. E. Shaw.

4. On June 6, 2005, an outside headhunter, Mike Ellis of Gambit Technologies Inc., forwarded the resume of Eisner for consideration for a Systems Administrator position at the Company. Based upon my review of his resume, I ascertained that Eisner's work at Securities Industry Automation Corporation made him a strong candidate for a Systems Administrator role at the Company. Accordingly, on June 16, 2005, I forwarded Eisner's resume to Systems hiring managers, including Peter Reiss, the individual in charge of the Company's Systems department at that time. Shortly thereafter, the hiring managers contacted me to ask me to set up an interview of Eisner by an employee of the Systems department at the Company. Thereafter, my department contacted Mike Ellis to try to arrange for an interview of Eisner. Before such interview could be arranged, on June 29, 2005, Mike informed us that Eisner was no longer available.

she is not actively working in the field. Accordingly, if Eisner is prevented from working as a Systems professional in the financial industry for two years, his career will be significantly impacted.


TOMISLAV PAVLICIC

Sworn to before me this
9th day of October, 2007


Notary Public Matthew J. Neel
Notary Public # 02NE6078781
Commission Expires 1/24/2011

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